

## REMARKS

Applicant submits this Amendment in response to the Office Action mailed on January 11, 2008.

Claim 1 has been amended for clarification and to call for relative selectivity rather than relative potency, as previously claimed. Support for the amendment to claim 1 is found in several places in the specification, such as Figures 3, 4, and 6, page 5, last 5 lines, and Examples 8 and 9.

### Rejections of the Claims

#### I. 35 U.S.C. §112, second paragraph

The Examiner has rejected claim 1 under 35 U.S.C. §112, second paragraph, as being indefinite because the language of the claim is not clear. Applicant has amended claim 1 in order to remove any lack of clarity concerning this claim. Applicant submits that, as amended, claim 1 is not indefinite and the Examiner is requested to withdraw the rejection of this claim on this ground.

#### II. 35 U.S.C. §112, first paragraph, written description requirement

The Examiner has rejected claims 1-6 under 35 U.S.C. §112, first paragraph, for failure to comply with the written description requirement. The Examiner bases this rejection on the contention that there is no support in the specification for the feature called for in claim 1 of an estrogen beta receptor agonist that has a higher relative potency for estrogen receptor beta

compared to estrogen receptor alpha than does genistein. Applicant traverses the rejection of these claims on this ground.

Applicant has amended claim 1 to remove the term “potency” and to replace it with the term “selectivity.” Applicant submits that this amendment to claim 1 overcomes the rejection of claims 1-6 for failure to comply with the written description requirement and the Examiner is respectfully requested to withdraw the rejection of these claims on this ground.

### III. 35 U.S.C. §112, first paragraph, enablement requirement

The Examiner has rejected claims 1-16 under 35 U.S.C. §112, first paragraph, for lack of enablement of the claims to the full scope claimed. The Examiner bases this rejection on the contention that, although the specification is enabled for estriol in the claimed method, the specification does not enable the use of a selective estrogen beta receptor agonist that has a higher relative potency for estrogen beta receptor compared to estrogen alpha receptor than does genistein. Applicant traverses the rejection of the claims on this ground.

Applicant has amended independent claim 1 to remove the term “potency” and to replace it with the term “selectivity.” The present invention is based on the discovery that estrogen receptor beta agonists inhibit the development of vascular hyperreactivity. See the specification, page 5, first sentence. Accordingly, the invention pertains to any and all known or to-be-discovered estrogen receptor beta agonists, and pertains particularly to estrogen receptor beta agonists that are selective over estrogen receptor alpha.

At present, the claims have been limited to call for only those estrogen receptor beta agonists that have a greater selectivity for estrogen receptor beta over estrogen receptor

alpha than does genistein. Examples of such estrogen receptor beta agonists provided in the specification include epi-estriol, diarylpropionitrile, and 3 $\beta$ Adiol. It is further submitted that one of skill in the art may readily determine the relative selectivity of a compound for estrogen receptor beta over estrogen receptor alpha and that any such compound that has a higher relative selectivity for estrogen receptor beta over estrogen receptor alpha than does genistein is suitable for the method of the invention.

Accordingly, Applicant submits that the amendment to claim 1 overcomes the rejection of the claims under 35 U.S.C. §112, first paragraph for lack of enablement to the full scope claimed and the Examiner is respectfully requested to reconsider and to withdraw the rejection of the claims on this ground.

## CONCLUSION

Applicant submits that the claims, as amended herein, are in condition for allowance and requests an early notice to that effect.

Respectfully submitted,



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## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on April 10, 2008.

Dated: 4/10/2008

  
Howard M. Eisenberg